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Court Appointed Counsel for Defendant Benjamin Cottman

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA

Plaintiff,

vs.

BENJAMIN COTTMAN,

Defendant.

Case No.: 2:18-cr-00129-JCM-DJA

**STIPULATION TO VACATE AND
CONTINUE SENTENCING HEARING
AS TO BENJAMIN COTTMAN**

[FIFTH REQUEST]

The United States of America, by and through its counsel, and Defendant Benjamin Cottman, by and through his court-appointed counsel, Kevin R. Stolworthy, Esq., hereby respectfully submit the following Stipulation and Proposed Order for this Court's consideration and approval.

It is hereby stipulated and agreed, by and between the undersigned parties, that the sentencing hearing for Defendant Benjamin Cottman presently scheduled for July 9, 2021, at 10:00 a.m. (ECF No. 183), be vacated and continued to a date and time no less than 45 days from August 12, 2021, at a date and time convenience for the Court.

The parties further stipulate that the requested continuance is warranted for following reasons:

1. On January 15, 2021, Defendant Cottman's filed a Motion for Determination of Mental Competency Pursuant to 18 U.S.C. 4241(a) ("Competency Determination Motion"). (ECF No. 163.) Due to the pending Competency Determination Motion, this Court continued Defendant Cottman's sentencing hearing to April 30, 2021, at 10:30 a.m. (ECF No. 165.)

1 2. On January 27, 2021, the Court granted the Competency Determination Motion,
2 ordering that Defendant Cottman's counsel designate a local doctor to conduct the evaluation. (ECF
3 No. 174.) A status check hearing was scheduled for March 12, 2021, at 1:00 p.m. (Id.)

4 3. Dr. Sunshine Collins was retained and approved by the Court to conduct the
5 evaluation of Defendant Cottman. Dr. Collins evaluated Defendant Cottman on February 19, 2021,
6 provided defense counsel with her Competency Evaluation Report on February 23, 2021, which was
7 filed under seal with the Court on February 26, 2021. (ECF No. 176.)

8 4. On March 12, 2021, the Court held a status conference regarding the Competency
9 Evaluation Report. After hearing arguments, the Court ordered that Defendant Cottman be given a
10 second evaluation to be performed by a medical health professional at a Bureau of Prisons medical
11 center or a Bureau of Prisons facility that has a medical center, and that a report be prepared and
12 filed under seal. (ECF Nos. 180, 181.) At that time, the Court also suggested that the parties seek a
13 continuance of the current sentencing date to accommodate the second evaluation, preparation of a
14 report, and any additional hearings.

15 5. A status check hearing before this Court was held on May 27, 2021. At that time, the
16 Court allowed the clinical psychologist from the Bureau of Prisons up to and including July 7, 2021,
17 to evaluate Defendant Cottman and submit a report. (ECF No. 186). The Court also provided the
18 Government until July 23, 2021, to file a supplemental response; and the defense up to August 6,
19 2021, to file a supplemental reply. (Id.) The competency hearing is presently scheduled for August
20 12, 2021, at 1:30 p.m. (Id.)

21 6. As such, the parties now move this court to continue the sentencing hearing at least
22 45 days from August 12, 2021 (the date of the competency hearing) to allow the Court sufficient to
23 conduct the competency hearing and make a determination on Defendant Cottman's competency to
24 be sentenced.

25 7. The parties submit that another continuance will not seriously harm the interests of
26 justice.

27 8. Defendant Cottman is presently in custody and agrees to the proposed continuance.

28 9. This is the fifth request of the parties for a continuance of the sentencing hearing.

1 WHEREFORE, the parties respectfully request that this Court accept this Stipulation and
2 enter and Order vacating the current setting of July 9, 2021, at 10:00 a.m., for the sentencing hearing,
3 and continuing the hearing to a date and time convenient to the Court but not less than 45 days from
4 August 12, 2021. The parties attach a Proposed Order for this Court's consideration.

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6 Dated this 14th day of June, 2021.

Dated this 14th day of June, 2021.

7 By: /s/ Allison Reese
8 ALLISON REESE, ESQ.
9 Assistant United States Attorney
10 *Counsel for the United States of America*

By: /s/ Kevin R. Stolworthy
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11 *Court-appointed Counsel for Defendant*
12 *Benjamin Cottman*
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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA

Plaintiff,

vs.

BENJAMIN COTTMAN,

Defendant.

Case No.: 2:18-cr-00129-JCM-DJA

**ORDER GRANTING STIPULATION
TO VACATE AND CONTINUE
SENTENCING HEARING AS TO
DEFENDANT BENJAMIN COTTMAN**

This matter coming on the parties' Stipulation to Continue Sentencing Hearing as to Defendant Benjamin Cottman (Fifth Request), the Court having considered the premises therein, and good cause showing, the Court accepts the Stipulation of the parties and finds as follows:

1. The parties agree to the fifth request for continuance of the sentencing hearing;
2. Defendant Cottman is in custody and does not object to the continuance;
3. Another continuance will not seriously harm the interests of justice;
4. The Court finds good cause to continue the sentencing hearing based on the reasons articulated in the parties' Stipulation, including that the current sentencing hearing date of July 9, 2021, offers inadequate time for Defendant Cottman to undergo the second mental health evaluation at a Bureau of Prisons medical facility and to allow this Court to decide the issue of Defendant Cottman's competency to be sentenced.

Accordingly, pursuant to the Stipulation, this Court will continue and set the date for the sentencing hearing for no less than 45 days from August 12, 2021.

IT IS THEREFORE ORDERED:

1. The Sentencing Hearing for Defendant Benjamin Cottman set for July 9, 2021, at 10:00 a.m., is **VACATED** and **CONTINUED**;

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IT IS SO ORDERED.

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